

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

**STATE OF DELAWARE**

v.

**GERARD T. SCHWEIGER,**

Defendant.

: ID. No. 1503020875  
: In and for Kent County  
:  
: RK15-04-0219-01  
: Perjury 1st (F)  
: RK15-04-0221-01  
: Conspiracy 2<sup>nd</sup> (F)  
:  
:

**ORDER**

Submitted: January 3, 2018

Decided: January 26, 2018

On this 26th day of January, 2018 upon consideration of the Defendant's Motion for Postconviction Relief, the Commissioner's Report and Recommendation, and the record in this case, it appears that:

1. The defendant, Gerard T. Schweiger ("Schweiger"), pled guilty on November 25, 2015 to one count of Perjury in the First Degree, 11 *Del. C.* §1223, and one count of Conspiracy in the Second Degree, 11 *Del. C.* § 512. He was also facing one additional count of perjury in the First Degree and one count of Bribing a Witness. *Nolle prosequis* were entered by the State on the additional charges in exchange for Schweiger's plea. As part of the Plea Agreement the parties agreed to recommend a sentence of ten years at Level V. Schweiger faced an additional eight years of incarceration on the additional pending charges had he gone to trial and been found guilty as charged.

2. Schweiger did not appeal his conviction or sentence to the Delaware Supreme Court; instead, he filed a motion for modification of sentence that was denied on January 20, 2016. Next, he filed, *pro se*, a motion for postconviction relief pursuant to Superior Court Criminal Rule 61 and a motion to compel on February 3,

2016. A briefing order was issued, but on May 24, 2016, Schweiger filed a “Motion to Dismiss Postconviction Motion Without Prejudice.” The Court deemed Schweiger’s “Motion to Dismiss” a motion to withdraw without prejudice and issued an Order to that effect on July 7, 2016. Schweiger also filed a second motion to withdraw guilty plea, a second motion to compel, a motion for transcripts, and four motions for appointment of counsel. All motions were denied.

On October 7, 2016, Schweiger filed a motion for postconviction relief that was designated his “first” motion, as the previous motion had been withdrawn without prejudice. In the motion he listed two grounds for relief. On December 2, 2016, Schweiger filed a “Supplemental First” motion for postconviction relief adding two more grounds.

3. The matter was referred to the Commissioner for findings of fact and recommendation pursuant to 10 *Del. C.* § 512(b) and Superior Court Criminal Rule 62. The Commissioner has filed a Report and Recommendation recommending that the Court deny the Defendant’s Motion for Postconviction Relief.

4. After the issuance of the Commissioner’s Report, neither party filed an appeal.

**NOW, THEREFORE**, after a *de novo* review of the record in this action, and for the reasons stated in the Commissioner’s Report and Recommendation dated October 26, 2017,

*State v. Gerard T. Schweiger*  
ID No. 1503020875  
January 26, 2018

**IT IS HEREBY ORDERED** that the Commissioner's Report and Recommendation is adopted by the Court in its entirety. Accordingly, Movant's Amended Motion for Postconviction Relief pursuant to Superior Court Criminal Rule 61 is hereby **DENIED**.

  
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Judge

NEP/wjs

oc: Prothonotary

cc: The Honorable Andrea M. Freud  
Brian J. Robertson, Esq.  
Eugene J. Maurer, Jr., Esq.  
Gerard T. Schweiger, JTVCC